



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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David B. Cohen
Mayor

Public Hearing Date: July 15, 2008
Land Use Action Date: September 9, 2008
Board of Aldermen Action Date: September 15, 2008
Expiration Date: October 13, 2008

DATE: July 11, 2008

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Alexandra Ananth, Planner

SUBJECT: **#215-08** MAX MAZAEV/VICTOR A. NICCOLAZZO JT., TR petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive the number of parking spaces, including dimensional widths, landscaping, etc. previously approved under administrative site plan approval, for a proposed increase in the number of clients who will be served at an existing non-profit adult daycare at 149A CALIFORNIA STREET, Ward 1, NONANTUM, on land known as Sec 11, Blk 1, Lot 1A, containing approx 71,755 sf of land in a district zoned Manufacturing.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decisionmaking process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent working session.

EXECUTIVE SUMMARY

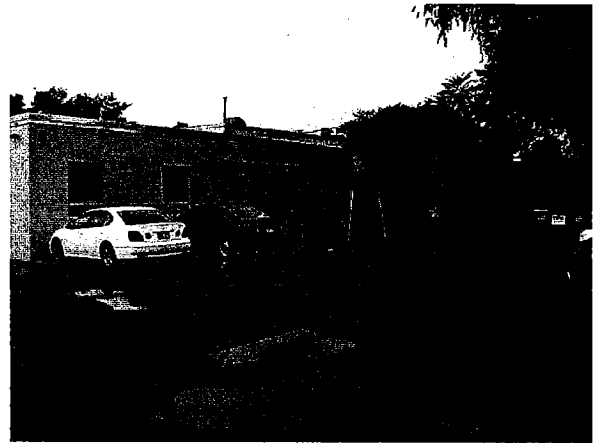
In 2005, Zdorovie Senior Services received approval via an Administrative Site Plan Review to locate an educational and cultural services center oriented to Russian speaking seniors at 149A California Street. Located in a manufacturing zone, this facility serves up to 42 clients a day, staffed by up to eight persons. In January 2008, the petitioners requested approval again via an Administrative Site Plan Review, to serve an additional 30 clients, including four additional staff. The Commissioner of Inspectional Services determined that the proposed expansion does not qualify for an Administrative Site Plan Review procedure, as the proposed expansion requires waivers to the number of parking stalls required and provided. Therefore, the petitioners are now seeking a special permit for a waiver of sixteen parking stalls in order to

increase the number of senior clients served. No new construction or alterations to the existing parking facility are proposed.

The Planning Department has some concerns about this type of use in a manufacturing district, particularly where there is no open space for recreation or other appropriate amenities. However, the Planning Department recognizes that the use already exists and appears to have been operating well at this site for the past three years.



The petitioners have stated that all clients arrive at the site in one of four vans or small buses similar to those used by “The Ride” and will continue to do so if the proposed expansion is approved. These buses are operated by the petitioners and remain on-site during the day. The buses appear to fit into four existing parking stalls and staff parking in the remaining 8 spaces.



During a site visit the Planning Department noticed an informal connection from the site to the Charles River Pathway and recommends that the petitioners trim back the brush and maintain this connection in order to provide a usable path for the benefit of its clients.

This nonprofit education institutional use is “protected” by the Dover amendment and is allowed as of right in this location. While the use in this location does not further the overall objectives of the *Newton Comprehensive Plan*, the use of alternative means of transportation is consistent with its transportation and mobility objectives and gives merit to the requested reduction in on-site parking spaces.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board should consider whether compliance with the parking stall requirements is practical or necessary due to the nature of the use to which few, if any clients drive.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located within a Manufacturing District and close to the Newton/Watertown Border. The Charles River is located directly behind the property to the north. The area has an industrial character with many of the immediate businesses engaged in manufacturing, construction, and wholesale services. Other tenants of the subject site include Wellspace Health and Wellness Center, Talamas

Broadcast Equipment, Smile Vision Cosmetic Dentistry, JA Kritikos Enterprises Food Services, and Helmick + Schechter Sculptors. McDonalds Restaurant is located a block to the west of this property, and Forte Park is in close proximity. The area also includes residential uses, which appear to be a mix of single- and two-family dwellings. The rear of the shopping complex along Watertown Street that includes Stop & Shop is located just south of the subject site.

B. Site

The subject property is located at 149A California Street, on a lot of 71,755 square feet and includes a total of five industrial style buildings constructed primarily of concrete block with simple window treatments. In addition to the five buildings on-site, the building on the adjacent site, just south of the subject building, appears to have some shared access through the parking areas including a loading ramp at the rear of their building that encroaches onto the subject parcel. *The petitioners should be expected to provide further information on this subject at the Land Use Committee's public hearing.*

The subject building is a one-story concrete block building of approximately 5,300 square feet with a handicap access ramp leading to the entrance. There are 12 parking spaces along the north and east sides of the building including one handicap stall.

Landscaping is limited to planters adjacent to some of the nearby buildings, but none appear to be near the subject building. The lot is fairly level and vehicular circulation appears to be generally well marked as a "sign and pavement marking package" was required prior to the issuance of the 2005 building permit. There appears to be an informal connection to the Charles River Pathway from the rear of the site.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

Although nonprofit educational uses are permitted in any of the City's zoning districts, the Planning Department is concerned that this type of use is not compatible with certain types of industrial uses which could locate at this site in the future. However, the Planning Department recognizes that the site is currently occupied with a number of tenants that are not industrial (uses) in nature and finds that the use is compatible with other uses currently on-site.

B. Building and Site Design

The petitioners are not proposing any changes to the building in order to serve the proposed expanded clientele. This one-story concrete block building is 12.9 feet tall. The building contains approximately 5,300 square feet and contains a group activity area with a library, kitchen and dining area, four small rest areas, a project area and administrative offices and a nursing station. There is a handicap ramp that serves the main entrance. The Planning Department staff's primary concern is the lack of usable open space or other outdoor amenities on-site.

C. Parking and Circulation

The existing building has 12 angled and perpendicular parking stalls located on the north and east side of the building including one handicapped stall and a drop off area. The current lot predates the City's parking requirements and as such is considered legally nonconforming, but includes adequate signage and vehicular directional markings including signs and painted arrows that were installed prior to issuance of occupancy permits in 2005. The Planning Department has no concerns regarding the safety of vehicular circulation.

The proposed use has a parking requirement of 28 stalls (72 divided by 3 for clients, plus 12 divided by 3 for staff). Twelve parking stalls currently are available for use by staff, clients and visitors. ***The petitioners are seeking a special permit for a waiver of 16 parking stalls.***

The petitioners have stated that their company shuttles all the seniors served to the site in four small buses and vans and their hours of operation are from 8:00 a.m.-2:00 p.m. The transport vans appear to fit into existing parking stalls and the remainder of the stalls are available for staff. At the present time, four employees drive to the site, four take public transportation, and four drive the company's transport vans to the site. The petitioners have also stated that for a nominal donation, they have an agreement with the Post 440 to park two of the buses at 285 California Street each day. These off-site parking spaces do not require a special permit, as they are not proposed to meet the parking requirement, but have been available for use as needed.

The Planning Department is somewhat concerned that, depending on how many staff on the largest shift drive to the site, there could be insufficient parking for the proposed expanded use at some point in time. However, there appears to be sufficient parking for the proposed expanded use today.

The Planning Department is concerned that insufficient parking is available for the site overall, which has a number of other businesses. A zoning review in 2005 indicates that there was a shortfall of approximately 34 stalls overall for the site and the current proposal would only increase the shortfall. The property owner is responsible for ensuring that each of the other uses has sufficient parking consistent with requirements. In addition, there are no defined pedestrian pathways through the parking facility and drainage in the existing lot appears to be inadequate.

D. Landscape Screening, Lighting, and Signage

The existing building is located behind 149 California Street and is not visible from California Street. The current parking area does not contain any plantings and does not appear to be lit (which are current City requirements). At a minimum, the Planning Department suggests that, at a minimum, the petitioners locate a large planter near the entrance to the building that could contain a tree or substantial greenery to soften the hardscape and improve the entry's visual appearance.

IV. COMPREHENSIVE PLAN

The location of this elder care facility in a manufacturing zone does not appear to further the goals of the *Newton Comprehensive Plan* objectives, which generally encourage developments and uses that foster active village centers by providing services that complement existing ones and contribute to a sense of place. However, the *Newton Comprehensive Plan* notes that adaptive reuse of buildings (generally in a mixed-use context) and complies with a key strategy of the Transportation and Mobility Element to encourage alternatives to drive-alone transport.

V. TECHNICAL REVIEW

- A. Technical Considerations, Sec. 30-15. The existing building is nonconforming with respect to the front and side setbacks. The applicant has indicated that there will be no new construction and the non-conforming front and side yard setbacks will not change with this proposal.
- B. Parking Requirements (Section 30-19). In 2005, the Commissioner of Inspectional Services ruled that the 12 stalls shown on plans were sufficient and reasonable to accommodate up to 42 clients and 8 staff members, but that any increase in the number of clients or staff must be submitted for further review. The petitioners are now seeking a waiver of 16 stalls to serve up to 72 clients and 12 staff. The parking facility is a pre-existing nonconforming lot and does not appear to require any relief even though it is dimensionally nonconforming to current standards.
- C. Other Reviews
 - 1. Engineering. As the petitioners are not changing the site in any way, the Engineering Department did not review this petition. Yet, the Planning Department is concerned that there does not appear to be any drainage in the parking facility and recommends that the applicant submit a revised site plan to both the Planning and Engineering Departments with at least some improvement in drainage around the subject building.
 - 2. Fire Department. Assistant Fire Chief Proia reviewed site plans and did not have any concerns with 149A California Street from an accessibility standpoint.
 - 3. Law Department. Although the Zoning Review Memorandum cites nonconforming parking space dimensions, aisle and driveway widths that require relief, the Associate City Solicitor concluded that only the approvals noted below are necessary, since the pre-existing parking lot was granted relief as a Dover-protected institution during prior administrative approval of this use.

VI. ZONING RELIEFS SOUGHT

Based on the completed zoning review, dated April 10, 2008, the petitioners are seeking approval through or relief from:

- Section 30-19(m) to allow for the exceptions to the parking requirements including Section 39-19(d)(13) for a waiver of 16 required parking stalls;
- Section 30-23 for Site Plan Approval; and
- Section 30-24(d) for approval of a Special Permit.

VII. SUMMARY OF PETITIONERS' RESPONSIBILITIES

At the July 15 public hearing, the petitioners should be expected to respond to all issues raised in this memorandum prepared by the Planning and Development Department.

ATTACHMENTS:

ATTACHMENT A: *Zoning Review Memorandum, April 10, 2008*

ATTACHMENT B: *Land Use Map*

ATTACHMENT C: *Zoning Map*

ATTACHMENT D: *Site Plan*

ATTACHMENT E: *Letter from Commissioner Lojek regarding 2005 Administrative Site Plan Review dated October 17, 2005*

Zoning Review Memorandum

ATTACHMENT A

Date: April 10, 2008

To: Michael Kruse, Director, Department of Planning and Development

From: Robert Merryman, Senior Planner

Cc: John Lojek, Commissioner of Inspectional Services

RE: Petition for special permit and site plan approval for an increase of 30 clients and four staff at a non-profit educational/senior service entity known as Zdorovie Senior Services, Inc. that will require **parking waivers**.

Applicant: Zdorovie Senior Services, Inc.

Site: 149A California St., Newton
Zoning: Manufacturing
Current use: 42 clients; 8 staff for
Senior educational & cultural services

SBL: Section 11, Block 01, Lot 01A
Lot Area: 71, 755 sq. ft.
Prop. use: 72 clients; 12 staff for
Senior educational & cultural services

Background:

In January 2008, the petitioner requested approval via an administrative site plan review for the expansion of the existing use for educational purposes by a non-profit educational corporation. Zdorovie Senior Services, Inc. presently uses the subject premises located in a Manufacturing zone and provides a range of educational and cultural services oriented to Russian speaking (42) seniors. Section 30-5(a)(2) provides that an educational use may be located in any zoning district of the City.

Administrative determinations

1. The applicant has submitted information establishing that the organization is a non-profit educational corporation.
2. The expansion of the proposed use **does not** qualify for an administrative site plan review procedure per Section 30-5(a)(2). (**SEE: attached Feb. 8, 2008 Memo**)
3. Section 30-15, Table 2, *Dimensional Requirements for Religious and Non-profit Educational Uses* contains no requirements pertaining to a Manufacturing zone. Per Table 2, Footnote 6, and per Table 3, Footnote 11, the "As of Right" dimensional controls in Table 3 shall be used for religious and non-profit uses in commercial districts. The proposed locus is within a commercial building constructed in 1978, pre-dating the adoption of Section 30-15, Table 3, *Dimensional Requirements for Commercial Districts*. As such, the building is non-conforming with respect to the front and side setbacks currently required per Table 3. The applicant has indicated no new construction, which may trigger the application of Table 3 controls. The existing structure has non-conforming front and side yard setbacks that will not change with this proposal.

4. Sections 30-19(c) and (d) set out the applicable requirements for the number of parking spaces. The applicant was required to provide 17 parking stalls in the original 2005 Administrative Site Plan Review. At that time the use changed from an auto parts distributor use to the educational type use, resulting in a decrease in required parking from 20 to 17 spaces. $[42 \text{ max.students}/3 = 14 \text{ plus } 8 \text{ max staff}/3 = 3 \text{ for } 17 \text{ total spaces}]$. The applicant proposes adding 30 more students and 4 more staff members which totals $[72 \text{ max.students}/3 = 24 \text{ plus } 12 \text{ max staff}/3 = 4]$ equals a 28 parking space requirement. Therefore $28 \text{ spaces} - 12 \text{ existing spaces} = \text{a } 16 \text{ space deficit}$. A special permit for a waiver of the 16 stall deficit is required.

5. Section 30-19(h), *Design of Parking Facilities*, 19(i), *Landscaping*, and 19(j), *Landscaping, Surfacing and Maintenance of Parking Facilities*, establish the design requirements applicable to parking facilities of this size. As the subject building was constructed in 1978, this made the applicant's building subject to business parking requirements set out in the Zoning Ordinance at that time, as adopted by the City per Ordinance #202 on March 21, 1977. In addition, as the applicant indicates that the current owner installed the parking facility after purchase of this property on June 10, 1977, and the parking facility was also subject to the parking facility design requirements in force at that time. However, the existing conditions plan provided by the applicant indicates that the parking facility fails to meet various requirements established in Sec. 24-21(h)-(j) of the 1977 Ordinance and is non-compliant. In addition, the most recently submitted proposed conditions plan dated August 16, 2005, fails to meet a number of requirements including parking setbacks, maneuvering aisle width, perimeter landscaping, and lighting requirements as required per Sec. 24-21(h), (i), and (j) of the 1977 Ordinance. Nor does the proposed revised parking facility meet the current Zoning Ordinance requirements in the above respects as required by Section 30-19(h), (i), and (j). No landscaping or lighting is indicated on plans. While the applicant seeks to provide zoning compliant parking for the subject use, it is noted that any alterations contemplated for the parking facility may not also cause new or greater noncompliance with respect to existing parking stalls or circulation lanes serving nearby uses on the site. This table compares the design standards for parking facilities per Section 30-19.

Section 30-19	ORDINANCE	EXISTING	PROPOSED
Setback			
Front	15 ft.	4 ft.	4 ft.
Side	7 ft.	2 ft.	2 ft.
Rear	20 ft.	165 ft.	165 ft.
Min. Number of Parking Stalls	1 stall per 3 students = 24 1 stall per 3 employees = 4 28 stalls Required	12 stalls	12 stalls
Min. Stall Length	19 ft.(Angle)	15-19 ft.	15-19 ft.
Min. Stall Width	9 ft.	7-10 ft.	7-10 ft.
Min. Aisle Width	24 ft.	17 ft.	17 ft.
Entrance/Exit Drives	20-25 ft.	17 ft.	17 ft.
Handicapped Stalls	(2) 12' x 19' stalls	1 stall	1 stall
Landscaping	5% interior (698 sq. ft.)		None
Screening	5'wide, 3.5' high dense shrubs		None
Interior (> 20 stalls)	One, 3" cal. Tree/10 stalls = 5		None

As can be seen in the above table the existing parking facility does not meet any of the technical requirements of the City's Parking Ordinance except for rear yard setback. Because this parking facility pre-dates the City's Parking Ordinance, the Commissioner of Inspectional Services determined that the applicant did not need to comply with these requirements in the Site Plan Review submittal. However, the Commissioner has determined that the proposed increase would require relief from Section 30-19(b), 30-19(c) and 30-19 (d) a special permit from the Board of Aldermen.

Zoning Review – Nonprofit Educational Corp.		
Ordinance		Complies
	Religious or Nonprofit Educational Status	
30-5(a)(2)(a)(i)	Satisfactory evidence of nonprofit educational status provided.	Yes
	Section 30-15	
30-5(a)(2)(a) 30-15, Table 2 & Table 3	Complies with applicable dimensional controls. <u>Notes:</u> Table 2 does not apply. Table 3 not triggered.	N/A
	Parking	
30-5(a)(2)(a) 30-19(d)(13)	Provides one stall per three students and one stall per three employees, including instructors and other employees.	No
30-5(a)(2)(a) 30-19(h)(1) 30-15, Table 3	Meets standard parking setback requirement of 5 ft.	Yes
30-5(a)(2)(a) 30-19(h)(2)a, b) & c)	Meets minimum stall sizes for standard and HP stalls associated with the subject use.	Yes
30-5(a)(2)(a) 30-19(h)(2)c)	Provides two HP stalls for up to 28 stalls.	No
30-5(a)(2)(a) 30-19(h)(3)	Provides 19 ft. maneuvering aisle width for 60-degree angle parking stall design.	No
30-5(a)(2)(a) 30-19(i)(1)	Meets perimeter landscaping requirements for parking facilities having more than 5 stalls.	No
30-5(a)(2)(a) 30-19(j)(1)	Provides required illumination for parking facilities having more than 5 stalls.	No

Overall Site Parking

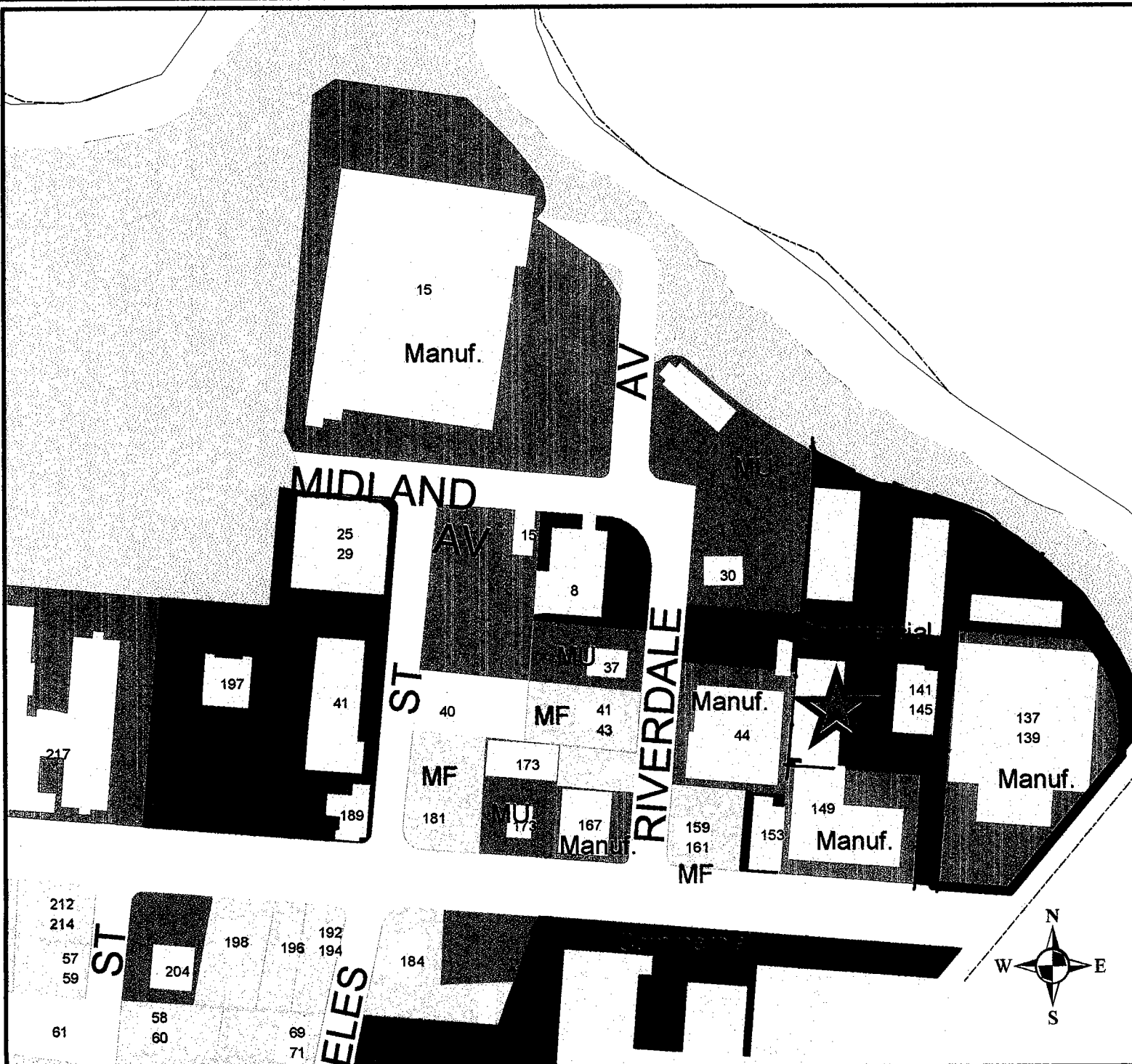
Based on parking data provided by the applicant, it appears that insufficient parking is available for the site overall, which has five other enterprises. These include offices, a massage therapy establishment, sculptor, and dental lab. The parking calculations provided by the applicant indicate that 82 spaces are needed for the other occupants, totaling 99 spaces for the site overall. As a result there is a shortfall for the site of 34 spaces (99 – 65). The property owner is responsible for ensuring that each of the other uses has sufficient parking consistent with Section 30-19(d) and consistent with all applicable design requirements.

Plans reviewed:

- Plan titled "Site Plan, Newton, Massachusetts, showing existing conditions at #149A California Street", dated January 9, 2008, prepared by VTP Associates, Inc., Land Surveyors – Civil Engineers, 132 Adams St., Newton, MA 02458, stamped and signed by James J. Abely, Land Surveyor.
- Plan titled "Site Plan, Newton, Massachusetts, showing Area Map, #149A California Street", dated August 16, 2005, prepared by VTP Associates, Inc., Land Surveyors – Civil Engineers, 132 Adams St., Newton, MA 02458, stamped and signed by James J. Abely, Land Surveyor.
- Floor Plan titled "Zdorovie Senior Services (not for profit), 149A California St., Newton, MA", dated March 6, 2008, prepared by Collaborative Design Architects, 78 Walnut Street, Needham, MA. 02492 stamped and signed by Alex J. Knox, Architect

Land Use Map

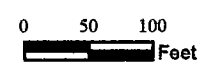
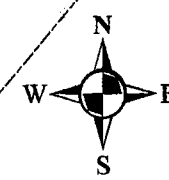
149A California St



- Legend**
- 149A California St
 - House Numbers
 - Building Footprints
 - Single Family Residential
 - Multi-Family Residential
 - Commercial
 - Industrial
 - Mixed Use
 - Vacant Land
 - Golf Course
 - Open Space
 - Private Educational
 - Nonprofit Organizations
 - Public Housing
 - Tax Exempt
 - Lakes & Rivers
 - Property Boundaries
 - Extra Map Lines
 - Street Rights-of-Way
 - Newton City Boundary
 - Newton City Boundary



The information on this map is from the Geographic Information System (GIS). Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her purpose. City departments will not review or approve applications based solely on this map.

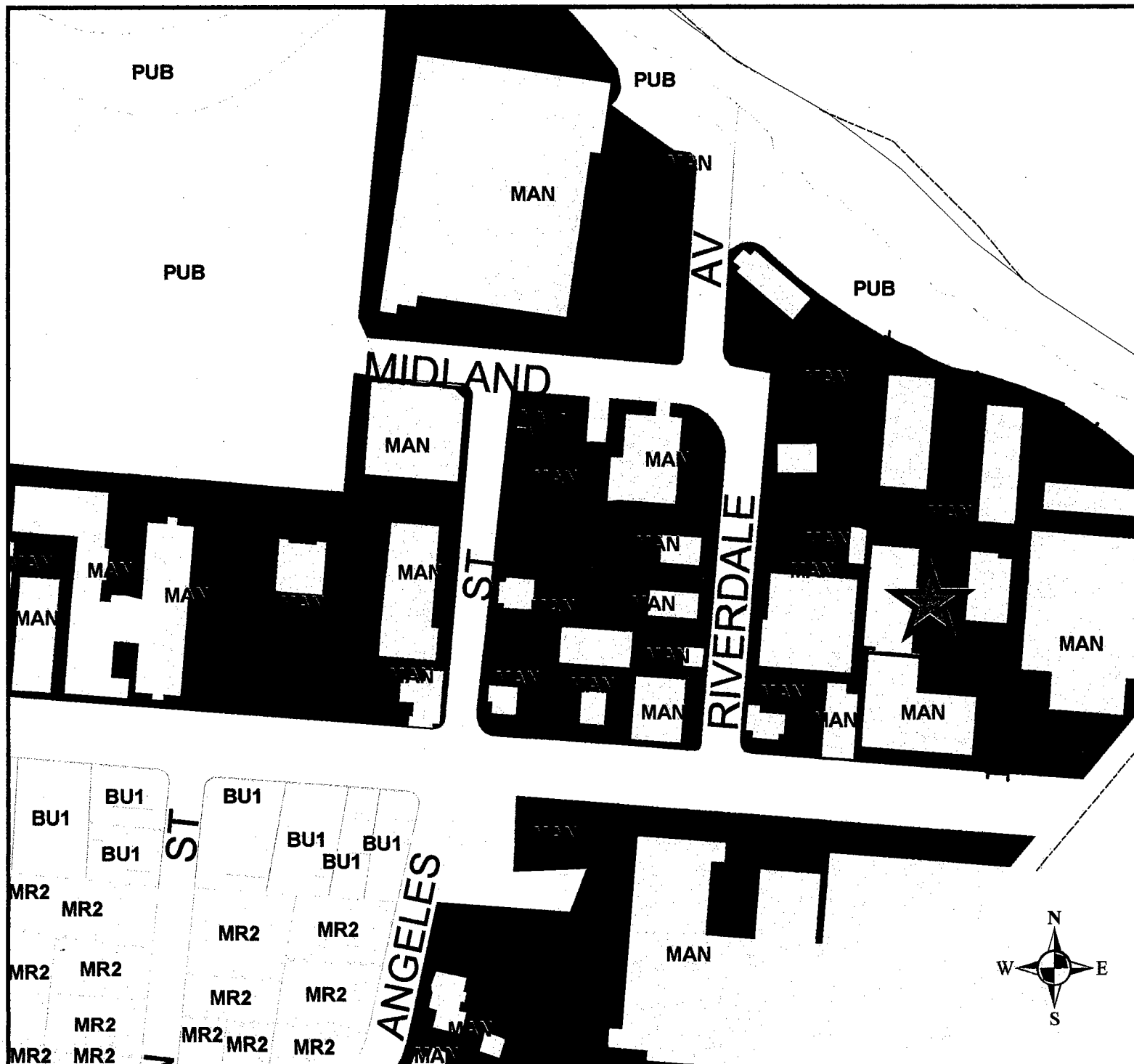


MAP DATE: June 24, 2010

ATTACHMENT B

Zoning Map

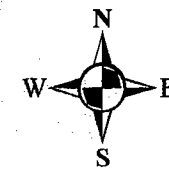
149A California St



- Legend**
- 149A California St Building Footprints
 - Single Res. 1
 - Single Res. 2
 - Single Res. 3
 - Business 1
 - Business 2
 - Business 4
 - Business 5
 - Limited Manufacturing
 - Manufacturing
 - Multi-Res. 1
 - Multi-Res. 2
 - Multi-Res. 3
 - Multi-Res. 4
 - Mixed Use 1
 - Mixed Use 2
 - OS/Rec.
 - Public Use
 - Lakes & Rivers
 - Property Boundaries
 - Extra Map Lines
 - Street Rights-of Way
 - Newton City Boundary
 - Newton City Boundary

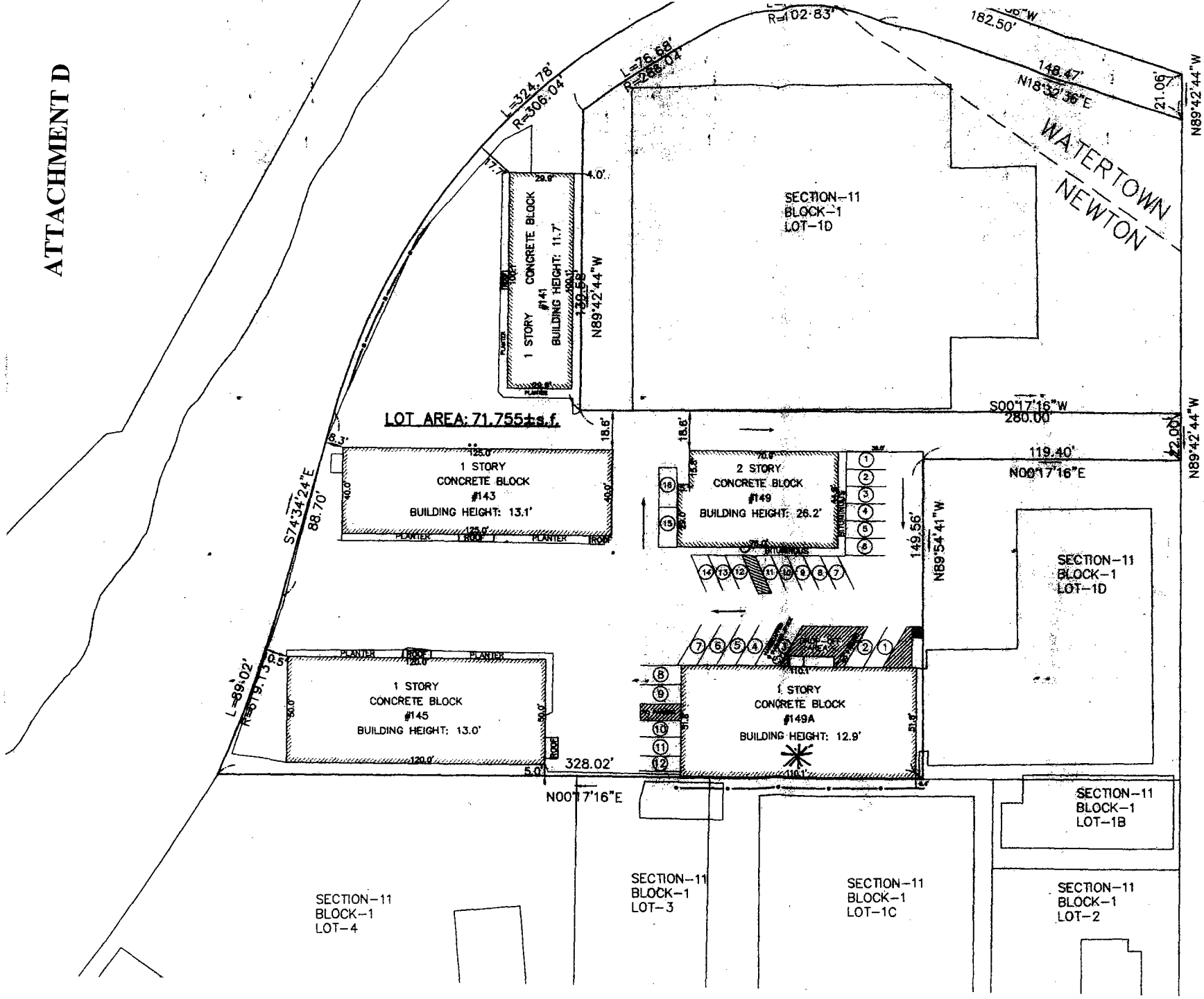


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0 50 100 Feet

MAP DATE: June 24, 2001



149

153

TORNIA STREET

City of Newton



David B. Cohen
Mayor

Inspectional Services Department

John D. Lojek, Commissioner
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ATTACHMENT E

(617) 796-1000
Plumbing and Gas Division
(617) 796-1070
Electrical Division
(617) 796-1075

October 17, 2005

G. Michael Peirce
Van Wert, Zimmer & Conlin, P.C.
Counselors at Law
245 Winter Street
Waltham, MA 02451-8709

RE: 149A California Street / Zdorovie Senior Services, Inc.

Dear Mr. Peirce,

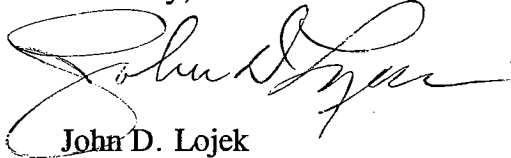
Thank you for submittal showing the changes to the site plan that we discussed last week for Zdorovie Senior Services, Inc. (ZSS). I have reviewed the new plan and the Administrative Site Plan Review dated August 26, 2005 and have reached the following conclusions:

- 1) That the twelve (12) spaces shown on the plan, with a handicap space relocated and ramp, are sufficient and reasonable accommodations to the program as presented.
- 2) That the previously proposed remote spaces are not reasonable or practical.
- 3) That the proposed use and the operation can be allowed with the following conditions, some of which were included in the Administrative Site Plan Review:
 - a) Show the location where, if any, of the transport vans, which may or may not be owned and utilized by the applicants, will be parked when not in use.
 - b) The applicant and/or property owner must submit a sign and pavement marking package, for the review and approval by the City Traffic Engineer, that will designate the maneuvering aisle between buildings 149 and 149A as a one way accessway, northbound, and the maneuvering aisle between buildings 143 and 149 be one-way east bound, prior to any building permits being issued for building 149A. The approved signage and pavement markings should be installed prior to the issuance of any occupancy permits for the building 149A. These plans should also be supplied to the Commissioner of Public Works, the Director of Planning and Development and the Fire Department for their review and comments.
 - c) The existing holes and ruts in the parking facility and the approach aisles should be patched or the parking area should be resurfaced and the above approved signage and pavement markings package installed prior to the issuance of a certificate of occupancy for 149A.

- d) The proposed operation has been described as 42 clients and 8 staff members. Any increase in the number of either clients or staff must be submitted to the Commissioner of Inspectional Services for review and approval prior to the increase. Such approval may require additional submittals, conditions or zoning relief as required.

I look forward to your clients' response, updated plans and comments.

Sincerely,



John D. Lojek
Commissioner of Inspectional Services

cc: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official
John Daglian, Associate City Engineer
Robert Rooney, Commissioner of Public Works
Clint Schuckle, City Traffic Engineer
Bruce A. Proia, Assistant Fire Chief